

**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH****Goods and Service Tax**

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.RaviSankar, Commissioner of State Tax (Member)
2. Sri.B. Lakshmi Narayana, IRS, Joint Commissioner of Central Tax (Member)

AAR No. 03 /AP/GST/2024 dated:30.01.2024

1	Name and address of the applicant	M/s.Sarala Foods Private Limited
2	GSTIN	37AAJCS1419B1ZN
3	Date of filing of Form GST ARA-01	06.01.2024
4	Personal Hearing	29.01.2024
5	Represented by	C.S SumanBansal , Company consultant
6	Jurisdictional Authority –Central	Kakinada Town Range , Kakinada Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(b) applicability of a notification issued under the provisions of the Act (e) determination of the liability to pay tax on any goods or services or both;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and APGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.

2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by M/s. Sarala Foods Private Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- 3.1 M/s. Sarala Foods Private Limited (hereinafter referred to as "applicant") is engaged in the business of manufacturing and supplying of rice. Applicant is having GST Registration number 37AAJCS1419B1ZN.
- 3.2 The applicant supplying rice to customers in pre-packaged and labelled packages, having quantity up to 25 Kilograms (Kgs).
- 3.3 The applicant stated that they have 3 types of customers to whom sales are executed as under:

A. Customer located abroad (foreign buyer)

- (i) The applicant stated that, foreign buyer provides the specification which has to be printed/labelled on the packages of rice, which are intended for sale to it. Therefore, the applicant procures empty bags from the supplier of packing material and get them printed/labelled according to the specifications of the foreign buyer. The rice is packed in empty bags having capacity up to 25kg and export them to foreign buyer.

B. Customers located in India who purchase for the purpose of exports on "bill to ship to" basis (Exporter)

- (i) The applicant stated that, rice is packed in empty bags which are received by the applicant from packing material supplier upon instructions from exporter and the pre-packaged rice is dispatched to customs port (bill to ship to basis) as per the instructions of exporter and the exporter ultimately exports the rice to foreign buyer.

C. Customers located in India who purchase rice from us for the purpose of exports ("Exporter")

- (i) The applicant stated that, the supplier of packing material dispatches the printed/labelled empty bags, having capacity up to 25 kgs, to the premises of the applicant on directions of exporter (i.e., on "bill to ship to" basis, bill to exporter and ship to us).
- (ii) The applicant stated that, rice is packed in empty bags which are printed and labelled as per the directions of exporter and the pre packaged rice is sent to exporter. Exporter exports the pre packaged rice to foreign buyer.

4. Questions raised before the authority:

The applicant sought advance ruling on the following:

1. Whether GST would be leviable on export of pre-packaged and labelled rice Up to 25 Kgs, to foreign buyer?
2. Whether GST would be applicable on supply of pre-packaged and labelled Rice up to 25 Kgs, to exporter on "bill to ship to" basis i.e., bill to exporter and ship to customs port. Exporter ultimately exports the rice to foreign buyer?

3. Whether GST would be applicable on supply of pre-packaged and labelled rice up to 25 Kgs, to the factory of exporter. Exporter will export the rice ?

On Verification of basic information of the applicant, it is observed that the applicant is under Central jurisdiction i.e ,Kakinada Town Range, Kakinada Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the Central jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's Interpretation of Law:

The applicant submitted the following legal provisions to advance his arguments

- 5.1 The applicant stated that, in view of amendment in Entry 51 of Schedule I of notification No 1/2017-Central Tax (Rate) dated 28-6-2017, Central Tax (CGST) @2.5% and State Tax (SGST) @2.5% is applicable on supply of pre-packaged and labelled rice with effect from 18th July 2022. (Refer clause (viii) of sub-Para B of Para 1 of Notification No 06/2022-Central Tax (Rate) dated 13th July, 2022).

The applicant stated that, as per explanation (ii) of notification No 1/2017-Central Tax (Rate), The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

- 5.2 The applicant submitted the relevant extracts of Notification No 06/2022-Central Tax (Rate) dated 13th July, 2022 has been reproduced below:

In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:- 1. In the said notification

A.....

B. in Schedule I – 2.5%,

(i) against S. Nos. 1 and 2, in column (3), for the portion beginning with the words "and put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", pre-packaged and labelled" shall be substituted;

(ii) after S. No. 9 and the entries relating thereto, following S. No. and entries shall be inserted, namely: - "9A 0403 Curd, Lassi, Butter milk, pre-packaged and labelled";

(iii) against S. Nos. 11 and 13, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", pre-packaged and labelled" shall be substituted;

(iv) against S. No. 16, in column (3), for the portion beginning with the words "and put up in" and ending with the words "as in the ANNEXURE", the words ", pre-packaged and labelled" shall be substituted;

(v) against S. No. 25, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", pre-packaged and labelled" shall be substituted;

(vi) against S. No. 26, in column (3), for the portion beginning with the words "put up in" and ending with the words "as in the ANNEXURE", the words "pre-packaged and labelled" shall be substituted;

(vii) against S. No. 30, in column (3), for the portion beginning with the words "put up in" and ending with the words "as in the ANNEXURE", the words ", pre-packaged and labelled" shall be substituted;

(viii) against S. Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", pre-packaged and labelled" shall be substituted;

(ix) after S. No. 91 and the entries relating thereto, following S. No. and entries shall be inserted, namely: - "91A 1701 or 1702 Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled";

(x) after S. No. 98 and the entries relating thereto, following S. No. and entries shall be inserted, namely: - "98A 1904 Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki, pre-packaged and labelled";

(xi) against S. No. 101A, in column (3), for the portion beginning with the words "other than those put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", other than those pre-packaged and labelled" shall be substituted;

.....
G. after the Schedule VII, in the Explanation, for clause (ii) and the entries relating thereto, the following clause shall be substituted, namely:-

'(ii) The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.'

- 5.3 The applicant further submitted clarifications given by Ministry of Finance regarding the GST levy on 'pre-packaged and labelled' goods vide Press Release dated 18th July 2022.
- a) if specified commodities are supplied in a package that do not require declaration (s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST levy.

b) In the context of food items (such as pulses, cereals like rice, wheat, flour etc), the supply of specified pre-packaged food articles would fall within the purview of the definition of 'pre-packaged commodity' under the Legal Metrology Act, 2009, and the rules made thereunder, if such pre-packaged and labelled packages contained a quantity upto 25 kilogram [or 25 litre] in terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made thereunder.

In view of the above legal provisions, the applicant submitted that, GST would apply on specified goods where the pre-packaged commodity is supplied in packages containing quantity of less than or equal to 25 kg. Pre-packaged and labelled commodities manufactured exclusively for export have not been excluded from the Legal Metrology Act, 2009 (1 of 2010), and the rules made there under. The applicant further submits that, GST would be applicable on the supply of prepackaged and labelled rice upto 25 kgs, irrespective of the fact that it is for domestic sale or for the purpose of exports.

The applicant further submitted that, if advance ruling authority does not agree with contentions/interpretations stated supra, then supply of pre-packaged rice upto 25 kg for the purpose of export will become exempt from GST. Hence, following compliances under the GST law would not be required on export of exempt goods:

- a. Issuance of E-way bill
- b. Issuance of E-invoice
- c. Obtaining Letter of Undertaking/Bond for export .

Finally, the applicant is of the view that GST would be applicable on the transactions done by them in view of the above legal provisions.

6. Personal Hearing:

The proceedings of Virtual Hearing was conducted on 29.01.2024, for which the authorized representative, C.S Suman Bansal, Company Consultant attended and reiterated the submissions already made.

7. Discussion and Findings:

M/s. Sarala Foods Private Limited (hereinafter referred to as "applicant") is engaged in the business of manufacturing and supplying of rice. Applicant is having GST Registration number 37AAJCS1419B1ZN. The applicant supplying rice to customers in pre-packaged and labelled packages, having quantity up to 25 Kilograms (Kgs). The applicant stated that they have 3 types of customers to whom sales are executed as under:

A. Customer located abroad (foreign buyer)

(i) The applicant stated that, foreign buyer provides the specification which has to be printed/labelled on the packages of rice, which are intended for sale to it. Therefore, the applicant procures empty bags from the supplier of packing material and get them printed/labelled according to the specifications of the foreign buyer. The rice is packed in empty bags having capacity up to 25kg and export them to foreign buyer.

B. Customers located in India who purchase for the purpose of exports on "bill to ship to" basis (Exporter)

(i) The applicant stated that , rice is packed in empty bags which are received by the applicant from packing material supplier upon instructions from exporter and the pre-packaged rice is dispatched to customs port (bill to ship to basis) as per the instructions of exporter and the exporter ultimately exports the rice to foreign buyer.

C. Customers located in India who purchase rice from us for the purpose of exports ("Exporter")

(i) The applicant stated that, the supplier of packing material dispatches the printed/labelled empty bags, having capacity up to 25 kgs, to the premises of the applicant on directions of exporter (i.e., on "bill to ship to" basis, bill to exporter and ship to us).

(ii) The applicant stated that, rice is packed in empty bags which are printed and labelled as per the directions of exporter and the pre packaged rice is sent to exporter. Exporter exports the pre packaged rice to foreign buyer.

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

We invite reference to the Notification no 06/2022 (CT Rate), dated 18th July 2022 wherein, GST has been made applicable on supply of "pre-packaged and labelled" commodities attracting provisions of Legal Metrology Act, 2009. The expression "pre packaged and labelled" means a "pre packaged commodity" as defined in clause (l) of Section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act 2009 (1 of 2010) and the rules made there under.

Notification No 06/2022-Central Tax (Rate) dated 13th July, 2022

1. In the said notification, -

A.

B. in Schedule I — 2.5%,

(viii) against S. Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXUREJ", the words ", pre-packaged and labelled" shall be substituted;

G. after the Schedule VII, in the Explanation, for clause (ii) and the entries relating thereto, the following clause shall be substituted, namely:-

(ii) The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

2. The applicant also made a reference to the clarifications issued by Ministry of Finance which is stated as under :

Ministry of Finance clarification on doubts/queries regarding the GST levy on 'pre-packaged and labelled' goods vide Press Release dated 18th July 2022.

a) If specified commodities are supplied in a package that do not require declaration (s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST levy.

b) In the context of food items (such as pulses, cereals like rice, wheat, flour etc), the supply of specified pre-packaged food articles would fall within the purview of the definition of 'pre-packaged commodity' under the Legal Metrology Act, 2009, and the rules made thereunder, if such pre-packaged and labelled packages contained a quantity upto 25 kilogram [or 25 litre] in terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made thereunder.

The applicant submitted that Notification No.6 of 2022-CTR dated 13.7.2022 enumerates that "GST is applicable on 'pre-packaged and labelled' commodities as per the provisions of the Legal Metrology Act w.e.f 18.07.2022".

3. The applicant also submitted another advance ruling order passed by Haryana State Authority for Advance Ruling in the case of M/S.D.D International Private Limited in support of his arguments, which described the taxability under GST.

In the instant case, the ultimate buyer is not present and the commodity is being pre-packed for an unknown ultimate buyer. The buyer from the applicant is re-selling the same to another buyer be it export or indigenous. This advance ruling authority agrees with the observation regarding the applicability of GST on "pre-packaged and labelled" irrespective of the fact that whether it is for domestic sale or exported outside the country.

Hence , we rule as under

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Whether GST would be leviable on export of pre-packaged and labelled rice upto 25Kgs, to foreign buyer?

Answer : Yes, Affirmative.

Question: Whether GST would be applicable on supply of pre-packaged and labeled rice upto 25 Kgs, to exporter on "bill to ship to" basis i.e., bill to exporter and ship to customs port. Exporter ultimately exports the rice to foreign buyer?

Answer : Yes, Affirmative.

Question: Whether GST would be applicable on supply of pre-packaged and labelled rice upto 25 Kgs, to the factory of exporter. Exporter will export the rice?

Answer : Yes, Affirmative.

Sd/- K.RaviSankar
Member

Sd/- B.Lakshmi Narayana
Member

//t.c.f.b.o//



Deputy Commissioner (ST)

Registrar
Authority for Advance Ruling
D/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To

M/s Sarala Foods Private Limited, Flat B, 37-2-14, VijayaSindhu Residency, Market Street, Kakinada, A.P.,- 533001 **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Jagannayakpur Circle, Kakinada Division **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Kakinada Town Range, Kakinada Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.